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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,195	11/13/2001	Srinivas Gutta	US010575	3005
24737	7590	10/24/2003	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			YOUNG, JOHN L	
			ART UNIT	PAPER NUMBER

3622

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/014,195

Applicant(s)
Gutta et al.

Examiner
John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Nov 13, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 1.5 6) ☐ Other: _____

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DRAWINGS

1. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

CLAIM REJECTIONS — 35 U.S.C. §101

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful
process, machine, manufacture, or composition of matter or
any new and useful improvement thereof, may obtain a
patent therefore, subject to the conditions and requirements
of this title.

2 Claims 1-17 are rejected under 35 U.S.C. 101, because the claims are directed to non-statutory subject matter.

As per independent claims 1 & 10, as drafted said claims are not limited by language to a useful, concrete and tangible application within the technological arts. Claims 1 & 10 suffer from undue-breadth.

It is well settled in the law that “Undue breadth of the claim may be addressed under different statutory provisions, depending on the reasons for concluding that the

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claim is too broad. If the claim is too broad because it does not set forth that which applicants regard as their invention. . . . a rejection under 35 U.S.C. 112, second paragraph would be appropriate. . . . If the claim is too broad because it reads on the prior art, a rejection under either 35 U.S.C. 102 or 103 would be appropriate.” (See MPEP 2173.04 Breadth Is Not Indefiniteness (August 2001) p. 2100-195).

Furthermore, it is well settled in the law that “[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims.” (See MPEP 2173.05(q)).

Also, it is well settled in the law that “A process that merely manipulates an abstract idea . . . is nonstatutory despite the fact that it might inherently have some usefulness. See *Alappat*, 33, F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond v. Diehr*, 450 U.S. at 192, 209 USPQ at 10). In this case, claim 1 is drafted so broadly that it is merely a method of (1) “posting a note at a content provider. . . .” as drafted, there is no exclusion of a claim of a person physically passing a post-it note along to another person who provides some kind of content; i.e., nothing in the claim suggests that any application of technology is required in “posting a note at a content provider. . . .”

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Claims 2 -9 & 11-17 are rejected for substantially the same reason as claims 1 & 10 respectively, because said claims depend from claims 1 & 10 and/or subsequent base claims which depend from claims 1 & 10.

CLAIM REJECTIONS — 35 U.S.C. §103(a)

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Bridson 6,359,270 (3/19/2002) [US f/d: 9/2/1999] (herein referred to as "Bridson").

As per claim 1, Bridson (FIG. 13; col. 21, ll. 1-67; and FIG. 12) shows "A method for updating a user profile indicating preferences of a user, comprising the steps of: obtaining a third party selection history indicating items that are selected by at least one third party; partitioning said third party selection history into clusters of items; receiving a selection form said user of at least one of said clusters; and updating said user profile with items from said at least one selected cluster."

Bridson lacks an explicit recitation of "partitioning said third party selection history into clusters of items; receiving a selection form said user of at least one of said clusters; and updating said user profile with items from said at least one selected cluster. . . ." However, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Bridson (FIG. 12) would have been selected in accordance with "partitioning said third party selection history into clusters of items; receiving a selection form said user of at least one of said clusters; and updating said user profile with items from said at least one selected cluster. . . ." because, such selection would have provided means of "*varying . . . advertising or information images in accordance with . . . stored user characteristics including predetermined preferences and interests, demographic standing, and recent buying or browsing patterns. . . .*" (see Bridson (col. 5, ll. 31-35)).

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As per claims 2-9, Bridson shows the method of claim 1 and subsequent base claims depending from claim 1.

Bridson (FIG. 13; FIG. 10A; FIG. 10B; FIG. 12; col. 1, ll. 43-60; col. 2, ll. 9-67; col. 5, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; col. 10, ll. 37-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; col. 16, ll. 1-67; col. 17, ll. 1-67; col. 18, ll. 1-67; col. 19, ll. 1-67; col. 20, ll. 1-67; col. 21, ll. 1-67; col. 22, ll. 1-67; col. 23, ll. 1-5; and the ABSTRACT; and whole document) shows elements that suggest the elements and limitations of claims 2-9.

Bridson lacks explicit recitation of the elements and limitations of claims 2-9, even though Bridson suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 2-9 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 2-97, because such inclusion would have provided means of *“varying . . . advertising or information images in accordance with . . . stored user characteristics including predetermined preferences and interests, demographic standing, and recent buying or browsing patterns. . . .”* (see Bridson (col. 5, ll. 31-35)).

As per claim 10, Bridson (FIG. 13; col. 21, ll. 1-67; and FIG. 12) shows “A method for recommending one or more available items to a user, comprising the steps of:

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providing a clustered third party selection history to a user, said selection history indicating items that are selected by at least one third party, each of said clusters including similar items; receiving a selection form said user of at least one of said clusters; and recommending items based on said selected clusters.”

Bridson lacks an explicit recitation of “providing a clustered third party selection history to a user, said selection history indicating items that are selected by at least one third party, each of said clusters including similar items; receiving a selection form said user of a t least one of said clusters; and recommending items based on said selected clusters. . . .” However, it would have been obvious to a person of ordinary skill in the art at the time of the invention that the disclosure of Bridson (FIG. 12) would have been selected in accordance with “providing a clustered third party selection history to a user, said selection history indicating items that are selected by at least one third party, each of said clusters including similar items; receiving a selection form said user of a t least one of said clusters; and recommending items based on said selected clusters. . . .” because, such selection would have provided means of “*varying . . . advertising or information images in accordance with . . . stored user characteristics including predetermined preferences and interests, demographic standing, and recent buying or browsing patterns. . . .*” (see Bridson (col. 5, ll. 31-35)).

As per claims 11-17, Bridson shows the method of claim 10 and subsequent base claims depending from claim 10.

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Bridson (FIG. 13; FIG. 10A; FIG. 10B; FIG. 12; col. 1, ll. 43-60; col. 2, ll. 9-67; col. 5, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-15; col. 10, ll. 37-67; col. 11, ll. 1-67; col. 12, ll. 1-67; col. 13, ll. 1-67; col. 14, ll. 1-67; col. 15, ll. 1-67; col. 16, ll. 1-67; col. 17, ll. 1-67; col. 18, ll. 1-67; col. 19, ll. 1-67; col. 20, ll. 1-67; col. 21, ll. 1-67; col. 22, ll. 1-67; col. 23, ll. 1-5; and the ABSTRACT; and whole document) shows elements that suggest the elements and limitations of claims 11-17.

Bridson lacks explicit recitation of the elements and limitations of claims 11-17, even though Bridson suggests same.

Official Notice is taken that both the concepts and the advantages of the elements and limitations of claims 11-17 were well known and expected in the art at the time of the invention. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the elements and limitations of claims 11-17, because such inclusion would have provided means of “*varying . . . advertising or information images in accordance with . . . stored user characteristics including predetermined preferences and interests, demographic standing, and recent buying or browsing patterns. . . .*” (see Bridson (col. 5, ll. 31-35)).

Independent claim 18 is rejected for substantially the same reasons as independent claim 1.

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Independent claim 19 is rejected for substantially the same reasons as independent claim 10.

Independent claim 20 is rejected for substantially the same reasons as independent claim 1.

Independent claim 21 is rejected for substantially the same reasons as independent claim 10.

CONCLUSION

4. Any response to this action should be mailed to:

Commissioner for Patents
P. O. Box 1450
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Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist
Crystal Park V

Serial Number: 10/014,195

(Gutta et al.)

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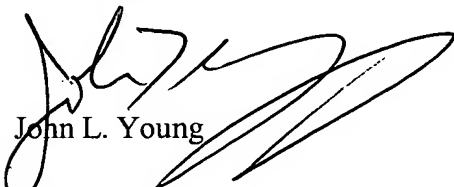
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2451 Crystal Drive
Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.


John L. Young
Patent Examiner

October 19, 2003